

**BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. AC-2011-4

**WILLIAM WITHERS**  
11650 Iberia Place  
San Diego, CA 92128

**Certified Public Accountant**  
**Certificate No. 48220**

Respondent.

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on Aug 27, 2011.

It is so ORDERED July 28, 2011.

  
\_\_\_\_\_  
FOR THE CALIFORNIA BOARD OF  
ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS

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Attorney General of California  
2 JAMES M. LEDAKIS  
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8  
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**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2011-4

12 **WILLIAM WITHERS**  
13 **11650 Iberia Place**  
14 **San Diego, CA 92128**

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15 **Certified Public Accountant**  
**Certificate No. 48220**

16 Respondent.

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Patti Bowers (Complainant) is the Executive Officer of the California Board of  
22 Accountancy. She brought this action solely in her official capacity and is represented in this  
23 matter by Kamala D. Harris, Attorney General of the State of California, by Carl W. Sonne,  
24 Deputy Attorney General.

25 2. Respondent William Withers (Respondent) is representing himself in this proceeding  
26 and has chosen not to exercise his right to be represented by counsel.  
27  
28

3. On or about May 29, 1987, the California Board of Accountancy issued Certified Public Accountant Certificate No. 48220 to William Withers (Respondent). The Certified Public Accountant Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. AC-2011-4 and will expire on September 30, 2011, unless renewed.

## JURISDICTION

4. Accusation No. AC-2011-4 was filed before the California Board of Accountancy (CBA), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 18, 2011. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. AC-2011-4 is attached as Exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. AC-2011-4. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. AC-2011-4.

9. Respondent agrees that his Certified Public Accountant Certificate is subject to discipline and he agrees to be bound by the California Board of Accountancy (CBA)'s probationary terms as set forth in the Disciplinary Order below.

## CONTINGENCY

10. This stipulation shall be subject to approval by the California Board of Accountancy. Respondent understands and agrees that counsel for Complainant and the staff of the California Board of Accountancy may communicate directly with the CBA regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the CBA considers and acts upon it. If the CBA fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the CBA shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the CBA may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Certified Public Accountant Certificate No. 48220 issued to Respondent William Withers (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **Actual Suspension.** Certified Public Accountant Certificate No. 48220 issued to William Withers is suspended for sixty (60) days. During the period of suspension the Respondent shall engage in no activities for which certification as a Certified Public Accountant or Public Accountant is required as described in Business and Professions Code, Division 3, Chapter 1, Section 5051.

2. **Obey All Laws.** Respondent shall obey all federal, California, other states' and local laws, including those rules relating to the practice of public accountancy in California.

3. **Submit Written Reports.** Respondent shall submit, within ten (10) days of completion of the quarter, written reports to the CBA on a form obtained from the CBA. The Respondent shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to Respondent's compliance with all the terms and conditions of probation. Respondent shall immediately execute all release of information forms as may be required by the CBA or its representatives.

4. **Personal Appearances.** Respondent shall, during the period of probation, appear in person at interviews/meetings as directed by the CBA or its designated representatives, provided such notification is accomplished in a timely manner.

5. **Comply With Probation.** Respondent shall fully comply with the terms and conditions of the probation imposed by the CBA and shall cooperate fully with representatives of the CBA in its monitoring and investigation of the Respondent's compliance with probation terms and conditions.

6. **Practice Investigation.** Respondent shall be subject to, and shall permit, practice investigation of the Respondent's professional practice. Such a practice investigation shall be conducted by representatives of the CBA, provided notification of such review is accomplished in

1 a timely manner.

2 7. **Comply With Citations.** Respondent shall comply with all final orders resulting  
3 from citations issued by the CBA.

4 8. **Tolling of Probation For Out-of-State Residence/Practice.** In the event  
5 Respondent should leave California to reside or practice outside this state, Respondent must  
6 notify the CBA in writing of the dates of departure and return. Periods of non-California  
7 residency or practice outside the state shall not apply to reduction of the probationary period, or  
8 of any suspension. No obligation imposed herein, including requirements to file written reports,  
9 reimburse the CBA costs, or make restitution to consumers, shall be suspended or otherwise  
10 affected by such periods of out-of-state residency or practice except at the written direction of the  
11 CBA.

12 9. **Violation of Probation.** If Respondent violates probation in any respect, the CBA,  
13 after giving Respondent notice and an opportunity to be heard, may revoke probation and carry  
14 out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is  
15 filed against Respondent during probation, the CBA shall have continuing jurisdiction until the  
16 matter is final, and the period of probation shall be extended until the matter is final.

17 10. **Completion of Probation.** Upon successful completion of probation, Respondent's  
18 license will be fully restored.

19 11. **Continuing Education Courses.** Respondent shall complete and provide proper  
20 documentation of 24 hours of professional education courses within 18 months of the effective  
21 date of this Order. This shall be in addition to continuing education requirements for relicensing.  
22 The continuing education courses shall include, at a minimum, a two-hour Board-approved  
23 Regulatory Review course.

24 Failure to satisfactorily complete the required courses as scheduled or failure to complete  
25 same no later than 100 days prior to the termination of probation shall constitute a violation of  
26 probation.

27 12. **Active License Status.** Respondent shall at all times maintain an active license  
28 status with the CBA, including during any period of suspension. If the license is expired at the

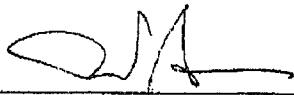
1 time the CBA's decision becomes effective, the license must be renewed within 30 days of the  
2 effective date of the decision.

3 13. **Cost Reimbursement.** Respondent shall reimburse the CBA \$6,613.79 for its  
4 investigation and prosecution costs. The payment shall be made within 1 year of the date the  
5 CBA's decision is final. Respondent may make the payments pursuant to a payment plan agreed  
6 to in writing with the CBA.

7  
8 ACCEPTANCE

9 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the  
10 stipulation and the effect it will have on my Certified Public Accountant Certificate. I enter into  
11 this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and  
12 agree to be bound by the Decision and Order of the California Board of Accountancy.

13  
14 DATED: 7/8/11

  
15 WILLIAM WITHERS  
Respondent


16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
18 submitted for consideration by the California Board of Accountancy of the Department of  
19 Consumer Affairs.

20 Dated: July 13 2011

21 Respectfully submitted,

22 KAMALA D. HARRIS  
Attorney General of California  
23 JAMES M. LEDAKIS  
Supervising Deputy Attorney General

  
24  
25 CARL W. SONNE  
26 Deputy Attorney General  
Attorneys for Complainant

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**Exhibit A**

**Accusation No. AC-2011-4**



1 KAMALA D. HARRIS  
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2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 CARL W. SONNE  
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11 **DEPARTMENT OF CONSUMER AFFAIRS**  
12 **STATE OF CALIFORNIA**

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Case No. AC-2011-4

14 **WILLIAM WITHERS**  
11650 Iberia Place  
15 San Diego, CA 92128

**A C C U S A T I O N**

16 **Certified Public Accountant**  
**Certificate No. 48220**

17 Respondent.

18  
19  
20 Complainant alleges:

21 **PARTIES**

22 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as  
23 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.

24 2. On or about May 29, 1987, the California Board of Accountancy issued Certified  
25 Public Accountant Certificate Number 48220 to William Withers (Respondent). The Certified  
26 Public Accountant Certificate expires on September 30, 2011. During the past six renewal  
27  
28

periods, the validity of Respondent's license fluctuated from its date of issuance as follows:<sup>1</sup>

| Dates of Valid License  | Dates of Invalid License                | Unpaid Fees | No Cont.<br>Ed. |
|---|---|-------------|-----------------|
| 10/06/2000 - 09/30/2001<br>10/01/2003 - 09/30/2005<br>10/01/2005 - 09/30/2007 | 10/01/1999-10/05/2000                   | X           | X               |
| 7/21/2009 - 9/30/2009   | 10/01/2007-07/20/2009                   | X           | X               |
| 4/8/2011 - present  | 10/01/2009 - 4/7/2011<br>("delinquent") | X           | X               |

### JURISDICTION

3. This Accusation is brought before the California Board of Accountancy (CBA), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

### STATUTORY PROVISIONS

4. Section 5050, subdivision (a), states:

Except as provided in subdivision (b) and (c) of this section, in subdivision (a) of Section 5054, and in Section 5096.12, no person shall engage in the practice of public accountancy in this state unless the person is the holder of a valid permit to practice public accountancy issued by the board or a holder of a practice privilege pursuant to Article 5.1 (commencing with Section 5096.)

<sup>1</sup> The California Board of Accountancy's licensing records were transferred to the Department of Consumer Affairs' centralized computer system in March of 1989. As a result, the underlying documentation related to license history prior to March 1989 is unavailable.

1           5.    Section 5051 states:

2           Except as provided in Sections 5052 and 5053, a person shall be deemed to be  
3 engaged in the practice of public accountancy within the meaning and intent of  
4 [Chapter 1 of Division 3 (commencing with Section 5000)] if he or she does any of  
5 the following:

6           (a)   Holds himself or herself out to the public in any manner as one skilled in  
7 the knowledge, science, and practice of accounting, and as qualified and ready to  
8 render professional service therein as a public accountant for compensation.

9           (b)   Maintains an office for the transaction of business as a public accountant.

10          (c)   Offers to prospective clients to perform for compensation, or who does  
11 perform on behalf of clients for compensation, professional services that involve or  
12 require an audit, examination, verification, investigation, certification, presentation,  
13 or review of financial transactions and accounting records.

14          (d)   Prepares or certifies for clients reports on audits or examinations of books  
15 or records of account, balance sheets, and other financial, accounting and related  
16 schedules, exhibits, statements, or reports that are to be used for publication, for the  
17 purpose of obtaining credit, for filing with a court of law or with any governmental  
18 agency, or for any other purpose.

19          (e)   In general or as an incident to that work, renders professional services to  
20 clients for compensation in any or all matters relating to accounting procedure and to  
21 the recording, presentation, or certification of financial information or data.

22          (f)   Keeps books, makes trial balances, or prepares statements, makes audits,  
23 or prepares reports, all as a part of bookkeeping operations for clients.

24          (g)   Prepares or signs, as the tax preparer, tax returns for clients.

25          (h)   Prepares personal financial or investment plans or provides to clients products  
26 or services of others in implementation of personal financial or investment plans.

27          (i)   Provides management consulting services to clients.

28                The activities set forth in subdivisions (f) to (i), inclusive, are "public  
accountancy" only when performed by a certified public accountant or public  
accountant, as defined in this chapter.

              A person is not engaged in the practice of public accountancy if the only  
services he or she engages in are those defined by subdivisions (f) to (i), inclusive,  
and he or she does not hold himself or herself out, solicit, or advertise for clients  
using the certified public accountant or public accountant designation. A person is  
not holding himself or herself out, soliciting, or advertising for clients within the  
meaning of this section solely by reason of displaying a CPA or PA certificate in his  
or her office or identifying himself or herself as a CPA or PA on other than signs,

1 advertisements, letterhead, business cards, publications directed to clients or potential  
2 clients, or financial or tax documents of a client.

3 6. Section 5070.5, subdivision (a), states:

4 A permit issued under [Chapter 1, commencing with section 5000.1] to a  
5 certified public accountant or a public accountant expires at 12 midnight on the last  
6 day of the month of the legal birthday of the licensee during the second year of a  
7 two-year term if not renewed.

8 To renew an unexpired permit, a permitholder shall, before the time at which  
9 the permit would otherwise expire, apply for renewal on a form prescribed by the  
10 board, pay the renewal fee prescribed by this chapter and give evidence satisfactory to  
11 the board that he or she has complied with the continuing education provisions of this  
12 chapter.

13 7. Section 5100 states, in pertinent part:

14 After notice and hearing the board may revoke, suspend, or refuse to renew any  
15 permit or certificate granted under Article 4 (commencing with Section 5070) and  
16 Article 5 (commencing with Section 5080), or may censure the holder of that permit  
17 or certificate for unprofessional conduct that includes, but is not limited to, one or any  
18 combination of the following causes:

19 . . . .

20 (b) A violation of Section 478, 498, or 499 dealing with false statements or  
21 omissions in the application for a license, in obtaining a certificate as a certified public  
22 accountant, in obtaining registration under this chapter, or in obtaining a permit to practice  
23 public accountancy under this chapter.

24 . . . .

25 (g) Willful violation of this chapter or any rule or regulation promulgated by the  
26 board under the authority granted under this chapter. . . .

27 8. Section 5109 of the Code provides:

28 The expiration, cancellation, forfeiture, or suspension of a license, practice  
privilege, or other authority to practice public accountancy by operation of law or  
by order or decision of the board or a court of law, or the voluntary surrender of a  
license by a licensee shall not deprive the board of jurisdiction to commence or  
proceed with any investigation of or action or disciplinary proceeding against the  
licensee, or to render a decision suspending or revoking the license.

## REGULATORY PROVISIONS

9. California Code of Regulations, title 16, section 52, subdivision (a) and (b) state:

(a) A licensee shall respond to any inquiry by the Board or its appointed representatives within 30 days. The response shall include making available all files, working papers and other documents requested.

(b) A licensee shall respond to any subpoena issued by the CBA or its executive officer or the assistant executive officer in the absence of the executive officer within 30 days and in accordance with the provisions of the Accountancy Act and other applicable laws or regulations.

10. California Code of Regulations, title 16, section 63 states:

A licensee shall not advertise or use other forms of solicitation in any manner which is false, fraudulent, misleading, or in violation of Section 17500 of the Business and Professions Code.

11. California Code of Regulations, title 16, section 87 states:

(a) 80 hours

As a condition for renewing a license in an active status, a licensee shall complete at least 80 hours of qualifying continuing education as described in Section 88 in the two-year period immediately preceding license expiration, and meet the reporting requirements described in Section 89(a). A licensee engaged in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code is required to hold a license in an active status. No carryover of continuing education is permitted from one license renewal period to another.

12. California Code of Regulations, title 16, section 89, subdivision (a) to (e), states:

(a) Upon renewal, a licensee who is required, pursuant to Section 87, to obtain continuing education must provide a written statement, signed under penalty of perjury, certifying that the requisite number of continuing education hours has been obtained. The licensee shall disclose the following information concerning courses or programs claimed as qualifying continuing education:

(1) Course title or description

(2) Date of completion

(3) Name of school, firm or organization providing the course or program

(4) Method of study, i.e., whether course or program is self-study, live presentation or Group Internet-Based Program (Webcast)

(5) Number of hours earned.

(b) If credit is claimed for completing the eight hour professional conduct

and ethics course specified in Section 87.7, a licensee shall obtain and retain for six years after renewal of his or her license, a certificate of completion or its equivalent disclosing the following information:

- (1) Name of licensee
- (2) Course title
- (3) Board-issued approval number for the professional conduct and ethics course completed by the licensee
- (4) School, firm or organization providing the course
- (5) Date of completion.
- (6) Verification by a program provider representative, such as a signature or seal.

(c) If continuing education credit for attending a continuing education course is claimed, the licensee shall obtain and retain for four years after renewal a certificate of completion or its equivalent disclosing the following information:

- (1) Name of licensee in attendance
- (2) School, firm or organization conducting course
- (3) Location of course attended
- (4) Title of course or description of content
- (5) Dates of attendance except when the licensee attended a course for academic credit given by a college, university, or other institution of higher learning accredited by an association recognized by the Secretary of the United States Department of Education, in which case the applicant may provide evidence of a grade of pass or "credit" to satisfy this requirement.
- (6) Number of hours of actual attendance except when the licensee attended a course for academic credit given by a college, university, or other institution of higher learning accredited by an association recognized by the Secretary of the United States Department of Education, in which case the applicant may provide evidence of a grade of pass or "credit" to satisfy this requirement.

(d) If continuing education credit is claimed for completing a selfstudy course, the licensee shall obtain and retain for four years after renewal a certificate of completion or its equivalent disclosing the following information:

- (1) Name of licensee taking the course
- (2) School, firm, or organization providing the course
- (3) Title of course or description of contents
- (4) Date of completion
- (5) Number of hours of continued education credit granted for completing the course.

1 (e) If credit as an instructor, discussion leader, or speaker is claimed, the licensee  
2 shall retain for four years after renewal the following information:

3 (1) School, firm or organization providing course

4 (2) Location of course presented

5 (3) Title of the course or description of content

6 (4) Course outline

7 (5) Dates and evidence of presentation

8 (6) Number of hours of actual preparation time and presentation time.

9 **COST RECOVERY**

10 13. Section 5107, subdivision (a), states:

11 The executive officer of the board may request the administrative law judge, as  
12 part of the proposed decision in a disciplinary proceeding, to direct any holder of a  
13 permit or certificate found to have committed a violation or violations of this chapter  
14 to pay to the board all reasonable costs of investigation and prosecution of the case,  
15 including, but not limited to, attorneys' fees. The board shall not recover costs  
16 incurred at the administrative hearing.

17 **FACTUAL SUMMARY**

18 14. Respondent's firm (*Withers & Mann LLP*) website offers public accountancy  
19 services to the public and identifies Respondent as a partner and certified public accountant. On  
20 July 22, 2009, a certified letter was sent to Respondent notifying him that the CBA had opened a  
21 case to conduct a preliminary investigation of his practice of public accountancy. The CBA also  
22 requested Respondent to submit financial statements, tax returns, and copies of certificates of  
23 completion to support continuing education (CE) courses and hours completed for his 2007 renewal  
24 and to date for his 2009 renewal period.

25 15. Respondent responded to the CBA with a letter dated August 20, 2009, and stated  
26 that personal and financial factors contributed to his delinquent response. Respondent explained  
27 that wildfires caused him to evacuate his office in October of 2007, making it difficult to find and  
28 reconstruct his CE for the renewal application. Respondent stated that through his firm, *Withers &*  
*Mann LLP*, he continued to represent himself as a CPA but did not sign or render any financial  
statements. Respondent stated his practice was by revenue, approximately 75% tax return

1 preparation and 25% tax planning and consulting. Respondent provided client income tax returns for  
2 2007 and 2008, in which he signed his name and the firm name, but did not designate himself as a  
3 CPA. Respondent stated that he was in the process of requesting copies of the certificates of  
4 completion from the providers for his CE courses and requested time to gather what he could by  
5 September of 2009.

6 16. On October 13, 2009, Respondent emailed the assigned CBA Enforcement Analyst a  
7 request for an extension since he was busy with the October 15, 2009 tax deadline. A 30-day  
8 extension was granted.

9 17. On February 2, 2010, the CBA issued a subpoena, compelling production of CE  
10 documents. Respondent did not respond to the subpoena.

11 18. On March 25, 2010, a CBA Investigative CPA sent a letter to Respondent regarding  
12 an on site investigation scheduled for April 28, 2010, at his accountancy office. Respondent was  
13 advised that his CPA license was expired and to cease and desist in the practice of public  
14 accountancy until his CPA license is renewed in the active status with CE.

15 19. On April 28, 2010, two CBA Enforcement Analysts visited Respondent at his  
16 San Diego office. Respondent presented a quick overview of the other partners that disassociated the  
17 prior summer, leaving him and one other partner. Respondent stated that he has one full time  
18 employee, who was in the process of obtaining her CPA license.

19 20. Respondent provides tax return preparation and consulting (88%) which consist of:

- 20 ✓ Partnership/ S Corporation
- 21 ✓ Fiduciary/Estate/Trust
- 22 ✓ Individual
- ✓ C Corporation
- ✓ Consulting

23 His partner's office provides the financial accounting (12%):

- 24 ✓ Auditing
- 25 ✓ Review & Compilation
- ✓ Financial Reporting Consultation

26 21. CBA records show that *Withers & Mann LLP* and his partner's licenses are active  
27 and clear.  
28



1           22.     A CBA Enforcement Analyst asked Respondent for the amount of CE hours he  
2 completed for his 2007 renewal. Respondent stated he completed 50-60 CE hours before the  
3 expiration date, and the rest he completed after the expiration date. Respondent realized he was  
4 missing CE hours for his 2009 renewal period and stated he feared responding to CBA letters  
5 because he knew that he needed to complete his CE hours.

6           23.     Respondent provided a copy of a certificate of completion of 24 hours of CE he  
7 completed online. Respondent added that he teaches and speaks at tax accounting conferences, but  
8 he provided no letters to prove his engagements.

9           24.     The CBA Enforcement Analysts also obtained copies of tax returns for tax years  
10 2005 through 2008, an Invoice and Customer list, and business cards from Respondent, his  
11 partner and employee. Respondent prepared three tax returns on dates when his license was  
12 expired. Respondent's certificate was expired from October 1, 2007 through July 20, 2009, and  
13 October 1, 2009 to April 7, 2011. Respondent prepared tax returns on January 12, 2009,  
14 March 28, 2010, and April 28, 2010.

15           25.     Respondent provided an Invoice and Customer list detailing his tax services and  
16 invoice dates. A majority of the invoice dates and memo of tax return preparation were  
17 performed when Respondent did not have the authority to provide CPA services to his clients.  
18 Additionally, the Invoice and Customer list confirmed Respondent prepared income tax returns  
19 and disregarded the CBA's instructions to cease and desist issued on March 25, 2010 described  
20 above.

21           26.     Respondent, his partner and employee's business cards for *Withers & Mann LLP*  
22 were displayed in the entrance of the office. Respondent's business card did not include his name  
23 with the CPA designation.

24           27.     Respondent was further requested to provide from the last two years at least four  
25 copies of Form 2848 (Power of Attorney and Declaration of Representative) and two copies of  
26 financial statements (one review and one compilation). Respondent stated he would have to  
27 request the statements from his partner. Respondent was given two weeks to provide the  
28 documents. Respondent failed to provide the requested financial statements.

1           28.     Respondent was asked if he was an Enrolled Agent, registered with CTEC or an  
2 Attorney and Respondent stated he was not. The CBA Enforcement Analysts discussed  
3 Respondent's options to continue to prepare tax returns. Respondent stated that he would register  
4 with CTEC as soon as possible. To date, Respondent has not registered with CTEC.

5           29.     On June 28, 2010, the CBA received completed copies of Form 2848. Despite his  
6 expired license, Respondent declared he was a CPA on all copies of all Form 2848, including those  
7 signed on October 4, 2009, October 20, 2009, November 19, 2009, and April 1, 2010 while his  
8 permit was expired.

9           30.     On July 8, 2010, a CBA Enforcement Analyst received a letter from the Program  
10 Representative of the Business Programs for UC San Diego Extension who reviewed their records  
11 for the San Diego Tax and Accounting Institute event for the years 2003 through 2008. She stated  
12 that Respondent attended as a speaker during the years 2003 and 2004. Respondent had stated he  
13 trained at the San Diego Tax and Accounting Institute to fulfill his CE on his 2007 renewal form.

14           31.     On Respondent's 2007 renewal form he claimed that he attended a three-day live  
15 presentation at the UC San Diego Extension for 2005 and 2006 but, according to the UC San Diego  
16 Extension, Tax & Accounting Institute representative, she could not find Respondent in the  
17 registration records for those years.

18           32.     Respondent also listed on his 2007 renewal form a teaching engagement in 2005 with  
19 the CalCPA Education Foundation. On September 17, 2010, the Associate Director of CPE for  
20 CalCPA Education Foundation stated in an email to the CBA that Respondent's final speaking  
21 engagement was in July of 2003.

22                   **FIRST CAUSE FOR DISCIPLINE**

23                   **(False Statements - Bus. & Prof. Code section 5100(b), (g))**

24           33.     Complainant refers to and by this reference incorporates the allegations set forth  
25 above in paragraphs 1 to 32, inclusive, as though set forth fully.

26           34.     Respondent is subject to disciplinary action under sections 5100, subdivision (b) and  
27 (g), in that on Respondent's 2007 license renewal, he secured his license by making false  
28 statements to the CBA. The circumstances are as follows:

- 1 a. Respondent claimed CE hours for live presentation with an instructor and teaching on his  
2 2007 renewal form but the providers he listed were not able to support any of the  
3 engagements he listed.
- 4 b. Respondent documented on his 2007 renewal/CE reporting worksheet that he attended the  
5 University of California, San Diego (UCSD) Extension, Tax and Accounting Institute in  
6 November of 2005 and November of 2006. However, the staff at the UCSD Extension  
7 could not verify Respondent registered for the 2005 and 2006 Tax Institutes.
- 8 c. Respondent also stated in an interview that he was a speaker for the San Diego Tax and  
9 Accounting Institute. However, the Program Representative for Business Programs  
10 (UCSD Extension) stated its records did not reveal Respondent attended as a speaker after  
11 2004. The UCSD Extension only records Respondent's attendance as a speaker for the  
12 years 2003 and 2004.
- 13 d. Respondent also claimed he had a speaking engagement with CalCPA Foundation in 2005,  
14 but Respondent last attended as a speaker at CalCPA Foundation in July of 2003.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Practice without a Valid Permit - Bus. Prof. Code section 5050, 5051, 5100(g))**

17 35. Complainant refers to and by this reference incorporates the allegations set forth  
18 above in paragraphs 1 to 32, inclusive, as though set forth fully.

19 36. Respondent is subject to disciplinary action under section 5100, subdivision (g), in  
20 conjunction with sections 5050 and 5051, for unprofessional conduct, for willfully practicing and  
21 holding himself out as a Certified Public Accountant when he failed to have a valid license. The  
22 circumstances were as follows:

- 23 a. Respondent was in the practice as a CPA when his license was expired on or about the  
24 period of October 1, 2007 through July 20, 2009 and from October 1, 2009 to  
25 April 7, 2011. Respondent is not an enrolled agent, attorney or registered with CTEC.  
26 Respondent's office is a CPA office, as advertised on his firm's website. Respondent  
27 provided copies of tax returns that he prepared on January 12, 2009 and June 5, 2009.  
28

1 Respondent also declared on Form 2848 that he was a CPA on October 4, 2009,  
2 October 20, 2009, November 19, 2009, and April 1, 2010.

- 3 b. Respondent continued to practice after his license expired and after the CBA issued a cease  
4 and desist instruction as evident from the tax returns prepared by Respondent on  
5 March 28, 2010 and April 28, 2010.

6 **THIRD CAUSE FOR DISCIPLINE**

7 **(Failure to Satisfy Continuing Education Req. - 16 CCR section 87)**

8 37. Complainant refers to and by this reference incorporates the allegations set forth  
9 above in paragraphs 1 to 32, inclusive, as though set forth fully.

10 38. Respondent is subject to disciplinary action under section 5100, subdivision (g), in  
11 conjunction with California Code of Regulations, title 16, sections 87, for unprofessional conduct,  
12 in that Respondent failed to complete continuing education requirements of the CBA. The  
13 circumstances are as follows: Respondent's license expired September 30, 2009. In his  
14 September 30, 2007, renewal form, Respondent represented that he only completed 60.5 of the 80  
15 continuing education hours required. Respondent stated to the CBA Enforcement Analysts that he  
16 did not complete his continuing education and did not provide a record of his completed courses  
17 for his September 30, 2009 renewal.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Cont. Ed. Control and Reporting - 16 CCR sections 87, 89)**

20 39. Complainant refers to and by this reference incorporates the allegations set forth  
21 above in paragraphs 1 to 32, inclusive, as though set forth fully.

22 40. Respondent is subject to disciplinary action under section 5100, subdivision (g), in  
23 conjunction with California Code of Regulations, title 16, sections 87 and 89, for unprofessional  
24 conduct, in that Respondent willfully misrepresented the completion of continuing education  
25 requirements to the CBA in his 2007 license renewal. The circumstances are that Respondent  
26 failed to maintain certificates of his claimed continuing education, only providing certificates for  
27 24 of the 80 hours required. Respondent further claimed CE hours for live presentations as an  
28

1 instructor and teaching on his 2007 renewal form but the providers were not able to support any of  
2 the courses he listed.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 **(Advertising - 16 CCR section 63)**

5 41. Complainant refers to and by this reference incorporates the allegations set forth  
6 above in paragraphs 1 to 32, inclusive, as though set forth fully.

7 42. Respondent is subject to disciplinary action under section 5100, subdivision (g), in  
8 conjunction with California Code of Regulations, title 16, section 63, for unprofessional conduct,  
9 in that Respondent on and after December 2, 2008, advertised or used other forms of solicitation  
10 which were false, fraudulent, misleading, or in violation of section 17500 of the Code by using  
11 and advertising Respondent's services as a CPA on his website, thereby holding himself out as a  
12 certified public accountant when his license was not valid for practice.

13 **SIXTH CAUSE FOR DISCIPLINE**

14 **(Response to CBA Inquiry - 16 CCR section 52)**

15 43. Complainant refers to and by this reference incorporates the allegations set forth  
16 above in paragraphs 1 to 32, inclusive, as though set forth fully.

17 44. Respondent is subject to disciplinary action under section 5100, subdivision (g), in  
18 conjunction with California Code of Regulations, title 16, section 52, subdivision (a), for  
19 unprofessional conduct, in that: (i) On February 2, 2010, the CBA issued a subpoena requesting  
20 Respondent to provide copies of continuing education course completion certificates to which  
21 Respondent did not respond; and (ii) on April 28, 2010, during the CBA Enforcement Analysts'  
22 visit to Respondent's office, Respondent was asked to provide additional client documentation  
23 within 30 days. Respondent responded on June 28, 2010, more than the 30 day period allowed  
24 for under section 52, above.

PRAYER


WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the California Board of Accountancy issue a decision:

1. Revoking or suspending or otherwise imposing discipline upon Certified Public Accountant Certificate Number 48220, issued to William Withers;

2. Ordering William Withers to pay the California Board of Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 5107; and

3. Taking such other and further action as deemed necessary and proper.

DATED:

may 16, 2011 

PATTI BOWERS  
Executive Officer  
California Board of Accountancy  
Department of Consumer Affairs  
State of California  
Complainant

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